

APPLICANTS:
Joseph Saracino and Lisa Gesualdo

REQUEST: A variance to permit a
screened porch within the required rear
yard setback in the R3 District

HEARING DATE: August 27, 2007

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5610

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Joseph Saracino

CO-APPLICANT: Lisa Gesualdo

LOCATION: 1049 Irwins Choice Lane – Irwins Choice, Bel Air
Tax Map: 41 / Grid: 3A / Parcel: 632 / Lot: 69
Third (3rd) Election District

ZONING: R3 / Urban Residential

REQUEST: A variance, pursuant to Section 267-36(B), Table VI, of the Harford County Code, to permit a screened porch to maintain within the required 23 foot rear yard setback (18 foot setback proposed), in the R3/Conventional with Open Space District.

TESTIMONY AND EVIDENCE OF RECORD:

Lisa Gesualdo, Co-Applicant, described the subject parcel as an approximately 7,300 square foot lot improved by a single family, two-story home occupied by herself, her husband and her son. The property is improved by a fence and raised rear deck having dimensions of approximately 14 feet by 14 feet.

The Applicants wish to construct on the deck a screened room, with roof, but to do so would result in an improvement being constructed to within 18 feet of the rear yard, while a rear yard setback of 23 feet is required.

The Applicants have discussed their request with their neighbors and no neighbor has any objection to the variance. The Irwins Choice Homeowners Association has also granted approval.

Ms. Gesualdo emphasized that the Applicants do not wish to create a four season room. The room would be screened only, and will remain screened only.

Case No. 5610 – Joseph Saracino & Lisa Gesualdo

For the Applicant next testified Gerald Anderson. Mr. Anderson testified that the subject property is a triangular lot, with the house built approximately 5 feet behind the front yard setback line. The triangular shape of the lot mandates that the house be set back as, otherwise, the angled side yard setbacks would be impacted by the house. If the house had been set on the front yard lot line the requested variance would not be necessary.

Mr. Anderson testified that the proposed location is the only appropriate location for the screened room. The deck and sliding glass door into the house is at that location. Mr. Anderson stated that the screened room will not be built so as to allow conversation to a four seasons room. The room will remain simply a screened-in room on the deck.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune agrees that the parcel has a unique configuration. The parcel has a relatively narrow street frontage on Irwins Choice Lane (approximately 57 feet), and a much larger rear yard lot line (approximately 90 feet).

The house was required to be set back about 5 feet from the front yard setback line (required minimum setback line is 25 feet), because of the impact on the side yard setbacks. Mr. McClune observed that the requested variance would not be necessary if the home were situated, as are others, on the front yard setback line.

Mr. McClune also stated that the subject property is abutted to the rear by a condominium project. The dumpster location for the condominium project is located directly behind the subject property. The screened-in room will help to mitigate the impact of the dumpster at that location on the subject property.

The Staff Report states, inter alia:

“The topography of the lot rises gently up from the road to the front of the house and then begins to slope downward to the rear of the dwelling. The slope drops off slightly to the road and parking area on the property to the rear. Directly to the rear of the property is a fenced dumpster used by the condominiums on the adjacent property. The Applicants property is nicely landscaped and all improvements appear to be well maintained.”

No testimony or evidence was given in opposition.

Case No. 5610 – Joseph Saracino & Lisa Gesualdo

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants relatively newly constructed home is improved by a 14 foot by 14 foot elevated deck to its rear. There is nothing unusual about the deck although, according to the Applicants, no doubt partially because of the removal of trees and a condominium project directly to its rear, the deck provides little comfort due to its exposure and lack of shade and protection from the elements. The trees directly behind the property have been removed due to the construction of a condominium project which, unfortunately for the Applicants, includes the location of a dumpster enclosure directly behind the Applicants' property.

Case No. 5610 – Joseph Saracino & Lisa Gesualdo

Normally, the Applicants would have been able to enclose the existing 14 feet by 14 feet deck with a roof and screened walls. However, the Applicants' house, because of the lot's unusual configuration, is located about 5 feet behind the front yard setback line. The siting of the house at this location drastically reduces the available area to the rear of the house in which such a structure could be constructed. The rear yard property line is about 33 feet from the rear of the house with a required 23 foot setback. Accordingly, the Applicants cannot enclose the existing deck with a screened room, although they could have done so if the house had been located on its front yard setback line.

The relief requested by the Applicants is a fairly innocuous request, one which should have no impact upon the surrounding property owners and one in which should increase the value of the Applicants' property and, certainly, improve their ability to enjoy their home.

The requested variance would not be necessary except for the unusual shape of the lot which, because of the home's location some 5 feet behind the front yard setback line, decreases the available building envelope on the property. The relief requested is the minimum necessary to alleviate this difficulty.

CONCLUSION:

Accordingly, for the above reasons it is recommended that the requested variance be granted subject to the following:

1. The approval is for a screened-in porch only.
2. The porch shall not be enclosed in the future.
3. The Applicants shall obtain all necessary permits and inspections for the porch.

Date: September 4, 2007

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on OCTOBER 4, 2007.